2:Evans-Pritchard E-5 (1931, 1936) 1951
FJ22 Nuer FJ22

had to be returned with no less than eight calves—and as these may have been widely dispersed much altercation may ensue. Indeed, one of the earliest British officers in Nuerland wrote that 'the system of marriage among the Nuers is the cause of nearly all their quarrels and troubles'.* Everyone concerned with the marriage stands to lose by its dissolution and they will try to prevent divorce.

Nevertheless, it can only be accepted that payment of bridewealth stabilizes marriage to a very limited degree. That this is so can best be understood by considering the question in relation to what happens at divorce. The marriage tie is severed by the return of the bridewealth because either the wife has died childless or her husband's people give up their rights in her. In either case, if there are no children, all the cattle have to be returned, except 'the cow (ox) of the hairs and the cow of the skirts',† unless they have died a natural death in the homesteads of the recipients. If the wife dies after bearing a single living child the usual procedure is for the extra-family kinsmen to return their portions of the bridewealth and for the family of the wife to retain their portions, the child remaining with his father. If the wife leaves her husband after the birth of their first-born his kin may decide to claim the return of their bridewealth except for six head of cattle, which the husband leaves with his wife's people to retain his rights in the child (*ruok*). These six beasts, including the two of 'the hairs and the skirts', are kept by the family of the wife. The extra-family kinsmen lose their portions of the bridewealth. The wife by this procedure is divorced and can remarry. On the other hand, they may leave all their cattle with the wife's family and kin and maintain thereby their rights in any children she may 'bear in the bush', that is, by lovers. She is then not divorced, but is only separated, from her husband, and she cannot remarry.

I was told that if a wife dies after having borne two children no cattle are returned, it being held that 'cattle which have children

* Bimbashi H. Gordon, *Sudan Intelligence Reports*, June 1903, No. 107.

† According to my own information these two animals are always retained by the bride's parents should the marriage be broken up after the consummation ceremony and are regarded in some part as payment for loss of the bride's maidenhood at the consummation and in some part as compensation for the expenses of the nuptial ceremonies. Mr. H. C. Jackson (*Sudan Notes and Records*, vol. vi, 1923, p. 155) says that they are left with the parents only if the husband is responsible for the dissolution of the marriage. Mr. P. P. Howell tells me that he is of the same opinion as Mr. Jackson.

2:Evans-Pritchard E-5 (1931, 1936) 1951
FJ22 Nuer FJ22

586
602 on their backs cannot be returned'. Nuer said that should a wife leave her husband after having borne two children the cattle would remain with her kinsmen and any children she might bear by other men would be claimed by her husband's people. She is still married to him though she lives as concubine to another man. They said that the husband's people would generally be content with this arrangement but, whether content or not, it would be useless for them to ask for return of their cattle and the progeny of these cattle. The wife's people would say to them: 'You have your children. You keep them and we will keep the cattle. Let your wife bear you children in the bush.'

The rules stated above are principles which are flexibly applied according to the circumstances. In cases of divorce much depends on the personal relations between the husband's people and the wife's people. If they are bad and his wife has left him at their instigation, the husband may claim back everything to which he has a right: cattle, sheep, goats, spears, tobacco, millet, and ornaments, including his wife's bead-decorated skirt. But if they are good and she has left her husband against her parents' wishes, he will not ask for the return of the smaller gifts and the *puoth manthude*, the little gifts with which he honoured his mother-in-law; and if she dies childless he may also leave some of the cattle to which he has a right with her parents in the hope that they will later give him her sister in her place, or just from sympathy. If he leaves any of the cattle, preference will be given to the portions of the spirits and the ghosts.

Another contingency which is taken into consideration is whether the wife is being sent away by her husband for barrenness or bad habits, which is rare, or whether she is leaving him without his consent and, in this case, whether she has adequate grounds for refusing to live with him, such as neglect or cruelty. Whatever the circumstances are, the husband has a right either to his cattle or to the children his wife may bear to other men, but it sometimes happens that whereas he wants his cattle back to marry again, since he cannot have a home without a wife, the wife's people tell him that he is responsible for the separation and must be satisfied with the children. They would not refuse him his children. If they tell him this—and they would not do so unless she had already borne him a child and had lived in his home—he has to accept their decision. There are no courts he can appeal to

2:Evans-Pritchard E-5 (1931, 1936) 1951
FJ22 Nuer FJ22

and his kinsmen would be unwilling to support him in resort to force. There is nothing he can do. If his wife has gone back to her parents and they do not want to return his cattle they tell him to come and fetch her. But if she is miserable with him she will only run away again, and this time to some distant part of the country. If he complains to her parents they say that it is no affair of theirs. Let him go and get his wife. In the end he will give her up and claim any children she may bear to lovers. There is always a chance that she will come back to him when he takes charge of her sons. I have never known a case in which a wife's parents have refused to return her husband's cattle after they have married her to another man, and when I asked what would happen were they to try to do so, I was told that the husband's kin would undoubtedly use violence to get back their cattle and, in addition, curse the wife so that either she would become barren or her children die. On the other hand, it sometimes happens that the wife's people promise to return the cattle as soon as they are able to do so but fail to return them all, through procrastination on one pretext or another or prevarication, for they may hide some of their cows in the herds of kinsmen in distant districts. If the husband and his wife's father are members of the same local community, difficulties of this kind are not likely to arise and, if they do, they can be settled by discussion and compromise. If the two men belong to different sections of the same tribe, and even more if they belong to different tribes, the dispute, as is the case in all issues of indemnity, is not so easily settled.

We may now consider in the light of these facts to what extent bridewealth may be said to stabilize marriage. Most broken marriages occur during or shortly after the nuptial ceremonies. One cannot properly speak of divorce at this stage because in Nuer eyes marriage is incomplete till a child has been born. That till the birth of a child the wife is considered to belong to her own kin and not to her husband's kin is shown not only in her continuing to live with her parents but in other ways, most noticeably by the fact that the husband is held responsible for her death should she die in her first childbirth. He then has to pay compensation for homicide (*thung yika*). During this period, when the union is looked upon as still only partly formed, the family and kinsmen of the wife do not, if they are wise, disperse the cattle. At this stage, therefore, there is no great difficulty about returning

2:Evans-Pritchard E-5 (1931, 1936) 1951
FJ22 Nuer FJ22

586
602

the cattle, which are, indeed, kept ready at hand to be returned should the need arise. Also, it must be remembered that the husband is unlikely to have paid all the bridewealth before a child is born.

I cannot give figures, but on the basis of my observations and of my discussions with Nuer on the subject I would say that when marriage has been brought about through the normal negotiations, payments, and ceremonies, divorce after the wife has brought her first child to her husband's home and has lived with him for a year or two is very unusual. Should it take place the wife's family, who alone can bring much pressure to bear on her, do not, with regard to the reduced payments of bridewealth of the present day, stand to lose much, for they will retain six head of cattle. It is the extra-family kinsmen, who have less influence over the wife, who lose all their cattle.

I have never known, or heard of, a case of divorce, or even of separation, after the birth of a second child. My own observations are very limited, but they are supported by the opinion of Nuer that when man and wife have lived together for several years and have children the wife is most unlikely to leave her husband's home while he is alive. Were she to do so the cattle would not, in any case, as I have explained, be returned. After the birth of his second child a husband ceases to keep track of the progeny of his cattle.

It should be noted that it may happen today that all the cattle in the kraal of the wife's father die of rinderpest shortly after the consummation of the marriage. As we have earlier noted, it is then not incumbent on the husband to replace them, or on his father-in-law to return others in their stead if the wife dies or leaves her husband. The wife's people need only return beasts in the place of those which have died after they have transferred them to third parties or which they have butchered. The father-in-law could not in these circumstances break off the marriage and marry his daughter to another man, for the cattle, though dead, are still 'on the wife's back'. When I asked what would happen were he to try to do so, I was told that the husband's kin would claim back their cattle and if necessary use force to obtain them. Should a wife leave her husband in these circumstances the problem of bridewealth would probably be solved by the common Nuer expedient of letting her live as a concubine.

2:Evans-Pritchard E-5 (1931, 1936) 1951
FJ22 Nuer FJ22

586
602 I think it is evident, in view of the facts stated above, that the fear of having to repay bridewealth cannot be said to be a very powerful sanction of the marriage union. Nor is there any evidence of which I am aware that would suggest that the greater the number of cattle handed over the more stable the marriage is likely to prove. Indeed, I am prepared to say definitely that the stability of Nuer marriage rests on quite other foundations than payments of bridewealth: affection between the spouses, the good reputation of the husband, mutual goodwill between the families of husband and wife, especially personal friendship between the fathers or between the husband and his wife's brother, and moral and legal norms.

It is generally safe to assume that when a woman lives with her husband it is because she chooses to do so and is happy in her marriage. By the time a girl is fully married to a man she knows him well. Usually he has courted her before asking for her hand, and she must give her consent before his request is granted. She has plenty of time between the betrothal ceremony and the ceremony of consummation in which to withdraw from the marriage should she be reluctant to complete it, and yet more time between the consummation and the birth of a child. I do not say that pressure may not be put on her by her family to accept her husband, but Nuer girls are not easily coerced. Nuer have good grounds for their assumption that a newly-wed who has borne her husband a child and brought it to his hearth is satisfied with her mate. By the time a second child is born experience has shown that the pair are agreeable to one another also as domestic partners. As Nuer observe a weaning taboo, this means at least three years after the birth of the first child.

Mutual goodwill between the families is also a necessary condition of a successful marriage. Marriage is not only a conjugal relationship but also a set of affinal relations, and it can be stable only if the kin on both sides behave towards the other side in the manner expected of them. This they endeavour to do. A man tries not only to live up to the pattern of what Nuer regard as a good husband but also to be a polite and helpful son-in-law and his wife's family try to act correctly towards him. The relatives on both sides also try to behave towards those on the other side as persons standing in these relationships should do. It is the evocative and inhibitory action of these moral values, sanctioned by

2:Evans-Pritchard E-5 (1931, 1936) 1951
FJ22 Nuer FJ22

586 602 approbation and censure, which give stability to marriage and security to the family that derives from it. Divorce is due to failure of one or other of the parties to live up to the code of conduct expected of him or her, and Nuer regard it as a misfortune in which there is also an element of the shameful.

581 602 Conjugal and affinal relations are personal relationships which require adult adjustment that is not easy. A Nuer regulates his behaviour to the persons around him through kinship values of one kind or another. Owing to the extensive area of kinship covered by Nuer marriage prohibitions, a man cannot marry into a family or lineage with whom he has already close kinship ties. He must therefore marry the daughter of people who are under no obligation to provide him with a wife or, indeed, to assist him in any way. This means forging new social links which by their nature cannot at their inception be of a kinship order. Nuer bridewealth payments are thus complementary to their marriage prohibitions.

Eventually affinal ties are, by slow degrees, transformed, as Nuer themselves say, into kinship ties. The birth of a child gives the wife kinship with her husband's people and the husband kinship with his wife's people. They say that *ruagh*, in-law relationship, becomes *mar*, kinship. Bridewealth payments may therefore 583 602 be viewed as a technique for creating new social relations between persons between whom there are no well-defined patterns of behaviour and for maintaining them. They are one of the many ways in which gifts and payments are used for this purpose, and have this function, in primitive societies. Bridewealth may thus be thought of as providing a kind of social scaffolding, a temporary structure of behaviour patterns, which enables the union to be built up. It ceases to be of any great significance once the new family is firmly established after the birth of the second child.

The payments do not so much give stability to the union of marriage as they are a recognition of its stability. The parents do not accept a suitor unless they are satisfied that he has the qualities of a good husband; and I have shown how the marriage is slowly formed through a series of ceremonies and rites, each marking a stage in the transference of the wife from her own people to her husband's people. Each rite is an acknowledgement that the marriage is a little more stable and complete and compels further payments, which are both an expression on the part of the husband's people of a sense of security and a means of bringing about

2:Evans-Pritchard E-5 (1931, 1936)1951
FJ22 Nuer FJ22

593 *kur wutni*, fighting with men. Also, a Nuer woman—a Dinka captive is not in so favourable a position—who readily accepts admonishment and correction for faults, would not submit to bullying but would return to her parents and brothers, leaving her husband without cook, dairymaid, and nurse, and therefore unable to maintain his home; and he might find it difficult to persuade her to return. If she does return it will only be after lengthy discussions in her parents' home and, as he is likely to have said something unpleasant about them in altercations with his wife, he may have to pay them a cow in compensation. Even if her father and brothers support her husband, he cannot prevent her from running away again, and this time to some distant relative who is unconcerned alike whether the bridewealth is returned or what the husband's grievances and discomforts may be. Should he [586] decide to divorce her and marry again, he has first to get his cattle back—it is always doubtful whether he will succeed in doing so—and he has then to face two or three years as a bachelor before his new wife comes to live with him. Therefore he will only take this step if his wife shows that she is determined to leave him, or if she is incorrigibly lazy, dirty, foul-mouthed, quarrelsome, or wanton, and occasionally if she is barren. Even if she has these defects he may, rather than go through the tedious process divorce entails, let her depart and bear him children by other men. A man will seldom divorce his wife for adultery unless she is constantly unfaithful.

562 With rare exceptions, I found Nuer women well content with their station and that their husbands and other men treated them [681] with respect. In saying that their status in society is high I am judging not so much by the fact that the same number of cattle have to be paid for the homicide of a woman as of a man, and I believe more for a young woman in some parts of Nuerland, but by the part women take in the daily life of the community. They mix freely and with easy assurance with the men, and they do not hesitate to argue with them about matters in which they are interested as women. They have as intimate relations as the men with the cherished cattle, share with them the life of the kraal, and enter the byres when they wish to do so.

595 In a polygamous family the relations between husband and wife are complicated by the husband's relations with his other wives. *Nyak*, a co-wife, in its verbal form means both 'to be a co-wife' and,

583
431 empty-handed when you marry, or is it better that they should be full, that the father should be full and the mother should be full?" Of the neighbouring Anuak people, who marry with beads and spears, they say: "Of what use are these things? Can people live on them?" In making their demands on the bridegroom's people the bride's people try to obtain above all lactating cows and their calves or pregnant heifers so that they may enjoy immediate benefit from the transaction. A *pie cow*, one which gives little milk, will not, however, be rejected so long as it bears calves.

Nevertheless Nuer show greater interest in the bridewealth character of cattle than in their nutritive character. It is not so much that having great nutritive value they acquire through it a general social value, become a standard of value, and are therefore employed in ritual, for indemnification of injury, and as the means of acquiring a mate. It is rather that their use as bridewealth gives them their supreme value in Nuer eyes. Cattle stand for a wife and are therefore the most important thing in a Nuer's life because a wife means to him his own home and that he becomes a copula in the lineage by fathering a son. Nuer do not grudge the loss of a herd to obtain a wife. They lose cattle, but the wife will bear them daughters at whose marriages the cattle will return, and sons who will herd them.

It is therefore a commonsense inference that payment of bridewealth has a stabilising action in marriage. If the wife leaves her husband the [586] cattle will have to be returned and as it would be always unpleasant, and often difficult, to return them it is supposed that the wife's family will use their influence to make her remain with her husband. There is some truth in this supposition, for Nuer know only too well the confusion, and consequent resentment, that may result from the dissolution of a marriage: "But with us Nuer, if a wife leaves her husband what will his kinsmen do? For they have given some of the cattle to her paternal uncles, some to her maternal uncles, some to her paternal aunt, and some to her maternal aunt. A wife should be obedient to her husband, for she has been married with cattle."

[p. 182a]

583 431 One of the earliest British officers in Nuerland wrote that "the system of marriage among the Nuers is the cause of nearly all their quarrels and troubles".[1] Everyone concerned with the marriage stands to lose by its dissolution and they will try to prevent divorce.

586 431 Nevertheless, it can only be accepted that payment of bridewealth stabilizes marriage to a very limited degree. That this is so can best be understood by considering the question in relation to what happens at divorce.

The marriage tie is severed (*dak*) by the return of the bridewealth because either the wife has died childless or her husband's people give up their rights in her. In either case, if there are no children, all the cattle have to be returned (except the *yang miende* and the *yang yani*, the cow (ox) of the hair and the cow of the skirt[2] unless they have died a natural death in the homesteads of the recipients. If the wife dies after bearing a single living child the usual proceedure is for the extra-family kinsmen to return their portions of the bridewealth and for the family of the wife to retain their portions, the child remaining with his father. In this case one cannot speak of divorce. The wife and mother has become a ghost. If the wife leaves her husband after the birth of their first-born his kin may decide to claim the return of their bridewealth except for six head of cattle which the husband leaves with his wife's people to retain his rights in the child (*ruok*). These six beasts, including the two of the hair and the skirt, are kept by the family of the wife. The extra-family kinsmen lose their portions of the bridewealth. The wife by this procedure is divorced and can remarry. On the other hand they may leave all their cattle with the wife's family

586 431 848

[1] Bimbashi H. Gordon, *Sudan Intelligence Reports*, June, 1913, No. 107.

[2] According to my own information these two animals are retained by the bride's parents should the marriage be broken up after the consummation ceremony and are regarded in some part as payment for loss of the bride's maidenhood at the consummation and in some part as compensation for the expenses of the nuptial ceremonies. Mr. Jackson (*Sudan Notes and Records*, vol. VI, 1923, p. 155) says that they are left with the parents only if the husband is responsible for the dissolution of the marriage. Mr. P. P. Howell tells me that he is of the same opinion as Mr. Jackson.

[p. 182b]

586 431 848 and kin and maintain thereby their rights in any children she may 'bear in the bush' (*dieth dor*), that is by lovers. She is then not divorced, but is only separated from her husband, and she cannot remarry.

If a wife dies after having borne two children no cattle are returned, it being held that "Cattle which have children on their backs cannot be returned".[1] Should a wife leave her husband after having borne two children the cattle will remain with her kinsmen and any children she may bear by other men will be claimed by her husband's people. She is still married to him though she lives as concubine to another man. The husband's people are said to be generally content with this arrangement but, whether content or not, it would be useless for them to reclaim their cattle and the progeny of these cattle and deduct the total cattle to legitimatize each child. The wife's people would say to them: "You have your children. You keep them and we will keep the cattle. Let your wife bear you children in the bush."

586 431 The rules stated above are principles which are flexibly applied in actual cases according to the circumstances of each case. Much depends on the personal relations between the husband's people and the wife's people. If they are bad and his wife has left him at their instigation the husband will claim back everything to which he has a right: cattle,[2] sheep, goats, spears, tobacco, millet, and ornaments, including his wife's *yoak* or bead-decorated skirt. But if they are good and she has left her husband against her parents' wishes he will not ask for the return of the smaller gifts and the *pwoth manthude*, the little gifts with which he honoured his mother-in-law, and if she dies childless he may also leave some of the cattle to which he has a right

[1] I did not record a case of a wife dying after all of her several children had predeceased her in infancy, and Nuer merely told me, in reply to my queries about rights to the cattle should this happen, that it was most unlikely to happen. Whether the cattle or how many of them would be returned would probably depend on the age at which the children had died.

[2] When possible the identical cattle are returned but if they are dead or it is difficult to recover them after dispersal others may be substituted for them and if they are of the same quality as those paid by the husband's kin they must accept them.

[p. 183a]

586 431 with her parents in the hope that they will later give him her sister in her place. If he leaves any of the cattle preference will be given to the portions of the spirits and the ghosts. When these have to be returned ashes are rubbed on their backs and the spirits and ghosts are told of the divorce and are promised that they will one day be given cows in the place of those they are losing.

Another circumstance which is taken into consideration is whether the wife is being sent away by her husband for barreness,[8] or bad habits, which is rare, or whether she is leaving him without his consent and, in this case, whether she has adequate grounds for refusing to live with him such as neglect or cruelty. Whatever the circumstances are the husband has a right either to his cattle or to the children his wife may bear to other men, but it sometimes happens that whereas he wants his cattle back to marry again, since he cannot have a home without a wife, the wife's people tell him that he is responsible for the separation and must be satisfied with the children. They would not refuse him his children. If they tell him this, and they would not do so unless she had already borne him a child and had lived in his home, he has to accept their decision. There are no courts he can appeal to and his kinsmen would be unwilling to support him in resort to force. There is nothing he can do. If his wife has gone back to her parents and they do not want to return his cattle they tell him to come and fetch her. But if she is miserable with him she will only run away again and this time to some distant part of the country. If he complains to her parents they will say that it is no affair of theirs. Let him go and get his wife. In the end he will give her up and claim any children she may bear to lovers. There is always a chance that she will come back to him when he takes charge of her sons. I have never known a case in which a wife's parents have kept her husband's cattle and at the same time tried to marry their daughter to another man, and when I asked what would happen were they to try to do so I was told that the husband's

587 431

[8] As a rule a husband will not divorce a barren wife. He will take back most of his cattle but will leave a few with her parents in recognition of her place in his home as mate and housewife.

587 kin would undoubtedly use violence to get back
431 their cattle and, in addition, curse (*biit*) the wife so that she would either become barren or her children die. On the other hand it sometimes happens that the wife's people promise to return
• 586 the cattle as soon as they are able to do so but
431 fail to return them all though procrastination on one pretext or another or prevarication, for they may hide (*piek*) some of their cows in the herds of kinsmen in distant districts. If the husband and his wife's father are members of the same local community difficulties of this kind are not likely to arise and can be settled by discussion and compromise. If they belong to different sections of the same tribe, and even more if they belong to different tribes, the dispute, as is the case with all issues of indemnity, is not so easily settled.

We may now consider in the light of these facts to what extent bridewealth may be said to stabilize marriage. Most broken marriages occur during or shortly after the nuptial ceremonies. One cannot properly speak of divorce at this stage because in Nuer eyes marriage is incomplete till a child has been born, the wife till this event living in her parents' home, being visited by her husband at nights from time to time. That till the birth of a child the wife is considered to belong to her own kin and not to her husband's kin is shown not only in her residence but in other ways, most noticeably by the fact that the husband is
[844] held responsible for her death should she die in her first childbirth. He then has to pay compensation for homicide (*thung yiha*). During this period when the union is looked upon as still only partly formed, the family and kinsmen of the wife do not, if they are wise, disperse the cattle. Were they to use them for a further marriage they would run the risk that this second marriage might have to be dissolved should the first be broken. Moreover they would find the kinsmen of any girl whom they might wish to marry most unwilling to accept cattle so insecurely held. I have found, when discussing cows in Nuer kraals, that they do not regard those animals they have received on the marriage of a kinswoman as fully theirs, in the sense that they can do what they like with them, till the kinswoman has borne

586 431

a child. At this stage, therefore, there is no great difficulty about returning the cattle, which are, indeed, kept ready at hand to be returned. Also, it must be remembered that the husband is unlikely to have paid all the bridewealth before a child is born.

I cannot give statistics, but on the basis of my observations and of my discussions with Nuer on the subject I would say that when marriage has been brought about through the normal discussions, payments, and ceremonies, divorce after the wife has brought her first child to her husband's home and has lived with him for a year or two is very unusual. Should it take place the wife's family, who alone can bring much pressure to bear on her, do not, with regard to the reduced payments of bridewealth of the present day, stand to lose much, for they will retain six head of cattle. It is the extra-family kinsmen, who have less influence over the wife, who lose all their cattle.

I have never known, or heard of a case of divorce, or even of separation, after the birth of a second child. My own observation are vey limited but they are supported by the opinion of Nuer that when man and wife have lived together for several years and have children the wife will not leave her husband's home while he is alive. After the birth of his second child a husband ceases to keep track of the progeny of his cattle.

586 583 431

It should be noted that it may happen today that all the cattle in the kraal of the wife's father die of rinderpest shortly after the consummation of the marriage. It is then not encumbent on the husband to replace them, or for his father-in-law to return others in their stead if the wife dies or leaves her husband. The wife's people need only replace them if they have transferred them to third parties (*loth*) or butchered them. To protect himself against possible claims in the future the father of a newly married daughter will often send to her husband's people the hides of any beasts which have died a natural death in his kraal. The father-in-law could not in these circumstances break off the marriage and remarry his daughter to another man for the cattle, though dead, are still "on the wife's back". When I

586 asked what would happen were he to try to do so
I was told that the husband's kin would claim
583 back their cattle and, if necessary, use force to
obtain them. Should a wife leave her husband
431 in these circumstances the problem of bride-
wealth would probably be solved by the common
[587] Nuer expedient of letting her live as a concubine.

I think it is evident, in view of the facts stated
583 above, that the fear of having to repay bride-
wealth cannot be said to be a very powerful
431 sanction of the marriage union. Nor is there
any evidence of which I am aware that would
591 suggest that the greater the number of cattle handed
593 over the more stable the marriage is likely to
prove. On the contrary the poverty of a suitor
may be to his advantage since the parents of the
girl whom he seeks in marriage can insist, and
often do so, that he comes to live in their village,
where they will receive constant aid from him
in hoeing, fishing, building, and herding, and the
accretion to their lineage of both the son-in-law
who comes in course of time to identify his interests
with those of his in-laws, and of his children,
who would otherwise, with their daughter, be
lost to them. A reputation for hard work, courage,
and an amiable character go a long way towards
making up for poverty of stock, especially if the
father of the girl and the father of the youth are
friends or the youth and the girls' brother are
comrades.

581 I am prepared to say definitely that the stability
of Nuer marriage rests on quite other foundations
593 than payments of bridewealth. It is founded on
affection between the spouses, mutual goodwill
between the families of husband and wife, and
moral and legal norms. Nuer girls are not easily
coerced into marriage and it is generally safe
to assume that when a woman lives with her hus-
band it is because she chooses to do so and is
happy in her marriage. By the time a girl is fully
married to a man she knows him well. Usually
he has courted her some time before asking
for her hand and she must give her consent
before his request is granted. She has plenty of
time between the betrothal ceremony and the
ceremony of consummation in which to withdraw
from the marriage should she be reluctant to

8:Howell E, G-5 (1942-1944)1954
FJ22 Nuer FJ22

compensation for adultery unless some previous agreement has been reached between them. The legal husband of the woman and the legal father of her children is still the man who has died. The children will be linked in the lineage of his family to his name, and the legality of the marriage is guarded by his heirs. In his name, his heir or heirs will continue to represent his interests, and indeed those interests are their own as members of his kinship group. This point is all-important in the assessment of rights in a widow in legal disputes which appear before Nuer courts. If, as sometimes happens, the bridewealth cattle are returned to the wife's family in the event of her husband's death, no further rights in that woman are retained by the dead man's heirs; but in this case the legal marriage has been dissolved, and the situation is not really different from normal cases of divorce.

Differences between 'Ghost-Marriage' and the Levirate

(i) A 'ghost-marriage' means that the vicarious husband as legal representative of the dead man actually *marries* the wife in the sense that he collects and hands over the bridewealth cattle for her and performs the marriage ceremonies with her on behalf of the dead man. In the levirate, the kinsman merely enters as a substitute into a marriage which is already in existence.

(ii) Generally speaking, in the case of the levirate, since the marriage was not actually initiated and negotiated by the pro-husband, he has less control over the widow than he would over a 'ghost-wife'.

(iii) The levirate differs from 'ghost-marriage' in that the legal husband (*pater*) and his widow once lived together as man and wife.

(iv) Although the leviratic family, like the 'ghost-family', consists of the dead husband (*pater*), the pro-husband (*genitor*) and the children born of the woman, the children, or at least some of them, may have been begotten by the dead man. Therefore in a 'ghost-marriage' the dead man is the *pater* but never the *genitor* of the children; in a leviratic union the dead man is always the *pater* and he may have been the *genitor* of all or some of the children. The distinction is emphasized in Nuer terminology: a child begotten by the dead man is known as *ret*, an orphan. A 'ghost-child' is known as *gat jooka*.

The levirate is established by the previous payment of bridewealth cattle. Therefore, unless the bridewealth is returned for some definite misbehaviour on the part of the widow, the simple legal marriage continues after the death of the husband and children born either before or after his death are legally his.

Categories of Persons with whom a Widow lives

The most usual and correct form of leviratic union implies the cohabitation of a woman with her dead husband's brother, and in

8:Howell E, G-5 (1942-1944)1954
FJ22 Nuer FJ22

587 rarer cases with a half-brother or more distant kinsman. Sometimes a widow lives with her husband's son (by another wife), but this is usually only in the case of an old man who dies leaving a young widow. Normally, if a man dies young, his children will be too young to inherit his widow. If a man dies old, his wives will usually be old too and will live with their own offspring, not as wife, but as 'mother of the household'. In very rare cases a widow is taken by her husband's sister's son.

According to customary law a widow is expected to live with one of her late husband's brothers. Among the Nuer brothers must marry in strict order of seniority, and the cattle held by them as a family are used in that order. Therefore if a married man dies leaving an unmarried brother, the latter will expect to take over his widow. Legally, he is entitled to do so, and if she refuses he can call for a dissolution of the marriage and return of the bridewealth cattle. The application of this law varies according to circumstances, and also according to the conventions held by different Nuer tribes, but it is rarely employed. If the widow is determined to live with someone else, and particularly if she declares her determination from the beginning, that is at the mourning ceremony of her husband, she is usually allowed to have her way. Moreover, if she has borne two or more children, she is considered to have fulfilled her procreative obligations, and it is less likely that there will be any objection to her taking a stranger as her lover. A widow, according to the circumstances, may elect:

(i) to live with her late husband's brother or kinsman;

(ii) to take a lover who is not a relative from her late husband's village community. In this case her husband's group is not deprived of her assistance in communal economic activities, and they are able to watch over the upbringing and education of her children.

(iii) to return to her own family and live among them, taking a lover or lovers from some stranger lineage.

● [586] (iv) to go off to some other vicinity and there live with a lover. If she did so without the agreement of her late husband's family, a divorce could be demanded, unless she had sufficient children to make it unlikely that it would be in the interests of her husband's kinsmen to demand it.

611 587 In all the circumstances described above, her children, wheresoever born and by whomsoever begotten, are legally the children of her late husband. This is the hard and fast rule. Only the circumstances set forth in (i) above can be described as the levirate. The other forms of union differ both from 'ghost-marriage' and the levirate. Such unions have been termed 'widow-concubinage' by Professor Evans-Pritchard.

8:Howell E, G-5 (1942-1944)1954
FJ22 Nuer FJ22

'Widow-Concubines'

The main points are as follows:

(i) The man who performs the duties of husband to the widow is in no sense the legal father of her children, nor is he heir to the legal husband.

(ii) He cannot compel her to live with him or claim compensation if she commits adultery. The compensation for adultery would concern her late husband as represented by his living brothers or legal heirs.

(iii) He cannot divorce her or demand back her bridewealth for there is no legal marriage between him and the widow, only between the widow and her late husband.

(iv) He is not even the legal representative of the dead man and therefore, unlike the levirate or 'ghost-marriage', the characteristics of the simple legal family are not contained in the structure of this union.

The man's position is therefore, in theory, a precarious one. In fact, most of these unions are arranged with the agreement of the dead man's legal representatives and thereby receive social recognition not only from the world at large, but also from the dead man's family.[1] If no such agreement exists the control over the children and the widow may be a source of legal dispute. Such disputes are not uncommon.

Unmarried Concubines

All these forms of domestic and procreative union have one principal common factor: the children of the woman, whether she be wife, 'ghost-wife', widow or widow-concubine, belong to the man on whose behalf the bridewealth cattle were transfered to her family, and they trace their descent through his name to his more remote ancestors. There are, however, forms of union which are in no sense legal because no cattle have been paid as bridewealth for the woman. Children born of such unions will be attached in name to their mother's lineage unless their father chooses to legalise their status and attach them to his lineage by payment of a special fee, or unless the mother is legally married later to some other man who assumes the status of legal father to the children.

The status of women among Nilotic peoples is high. In the question of marriage they usually have a fairly free choice, though there are undoubtedly many occasions when father or brothers will use persistent persuasion or even force to compel a girl to marry a man she

[1] A widow living in this form of union with a man is known as *ciek ne lak* and her children as *gaat cieng*.

8:Howell E, G-5 (1942-1944):1954
FJ22 Nuer FJ22

582

(v) A man may not marry again into his wife's lineage. Nuer say that a man may not have intercourse with two closely related women at the same period of time. The link is really through the children; a man may not marry his wife's sister because she will also be the maternal aunt of his children and entitled to a portion of the bridewealth of his daughters. A confusion of status of this kind must be avoided.

(vi) A man may not marry the daughter of an age-mate. Common initiation brings about an association similar to kinship. This is symbolized in the giving of the 'cow of the age-mate' (*yang ric* or *ruath ric*).[1] To marry the daughter of any age-mate is to bring him into the category of father-in-law; the avoidance due to the latter is incompatible with the conventional familiarity which exists between age-mates.

Professor Evans-Pritchard summarizes these rules in an article on the subject.[2] He says:

> The exogamous rules ... can be generalized by saying, as the Nuer do, that a man may not marry a woman who is *mar*, kin, to him. In defining exogamy kinship is traced farther in some directions than in others and is of different kinds: the clan kinship of the *mut*, the common spear; the kinship of *buth*, of collateral lineage and of adoption; uterine kinship; kinship through the *genitor*; the kinship of cognation, *mar* in the usual sense of the word; kinship which the birth of a child creates between husband and wife; the kinship acknowledged by acceptance of bridewealth; the kinship by analogy of the *ric*, the age-set, and the *twac*, the leopard-skin.[3]

586
783

We shall see that the greatest care is taken during the social processes of marriage to avoid any possible breach of these rules,[4] and it is unlikely that a bar to marriage would be discovered subsequently, at any rate one which involves a prohibition sufficiently strong to be unavoidable. Unless the relationship is singularly remote, however, the union would be dissolved without further delay and the appropriate ritual of appeasement and decontamination performed. This is usually performed by a Leopard-Skin Chief, who neutralizes the effects of the breach of taboo. A cow is sacrificed to the ancestral spirits, and the whole carcase divided into halves,[5] one half being consumed by the relatives of the man, the other half by the relatives of the woman. The presence of the Leopard-Skin Chief and the fact that a cow (possibly only a barren one) is sacrificed would indicate that the breach is a serious one and likely to bring great misfortune to the people concerned. As Professor Evans-Pritchard points out, the value of the sacrifice is

[1] See p. 110.

[2] *Social Structure: Studies presented to A. R. Radcliffe-Brown*, Oxford, 1949.

[3] Evans-Pritchard points out that 'a leopard-skin chief may not marry into the family of another leopard-skin chief, even though they are unrelated'. This contention may be true of Lou and eastern Nuer, where Leopard-Skin families are few, but I doubt whether it is applied in the western parts of Nuerland, where they are more common.

[4] See pp. 87, 91, 92.

[5] *Yang ne tak ke ruai*, 'the cow of dividing for incest'.

8:Howell E, G-5 (1942-1944)1954
FJ22 Nuer FJ22

usually an indication of the seriousness of the breach. For less serious offences of this sort, a smaller animal would be sacrificed, a bull-calf or a ram, and the ritual performed by the kinsmen of the parties concerned would be less elaborate. In some cases it is sufficient to cut in two a wild fruit known in Nuer as *kwol*. I think that the Leopard-Skin Chief is called in more usually when a legal union between persons within the prohibited degrees has taken place, and not in cases of extra-marital intercourse which will not continue. These ceremonies may also be performed before the union takes place, but clearly only in borderline cases where the relationship of the parties is so remote as to be almost fictitious. Similarly, as already mentioned, it would be performed if the impediment were discovered subsequent to legal marriage, but again the union would be unlikely to continue unless the relationship was exceptionally remote, especially, as is so often the case, if disasters (infant mortality or sickness in the family and other misfortunes) have occurred and have been attributed to this cause after searching investigation. As a ground for divorce, should both parties demand it, a breach of the exogamy rules would be indisputable, and I think that a Nuer court would nowadays grant a divorce without much argument.[1] This is, however, a matter of conjecture only, as I have only known one case of divorce brought before the courts for this reason, and then there were circumstances unconnected with exogamy which would have made the dissolution of marriage inevitable. Such matters are strictly limited to the families, or at most to the lineages, of the parties concerned, and are not usually brought to light in a public manner.

We have so far been principally concerned with the laws of exogamy and the prohibition of legal union between persons who fall within the forbidden degrees. We have seen also that these laws are relative to the position in the social and kinship structure of the persons concerned, and if their relationship is sufficiently distant, the prohibition may be permanently cancelled by the performance of sacrifice and ritual. In any case the consequences (*nueer*) may be thus avoided, even if the ritual is not sufficiently effective to ensure a safe continuance of the union. These rules also apply to extra-marital and illicit sexual intercourse, though not necessarily with the same force, and the consequences of infringement may be less serious. There is also an obvious difference between a casual act of sexual intercourse which is not repeated, and intercourse which results in the pregnancy of the woman. The birth of a child in such circumstances is a permanent reminder of the offence, and because the child is a link between the mother and the physiological father the situation is more dangerous. There is a confusion of legal and social status which at all costs must be avoided. Among the Nuer such difficulties can

[1] See also under Dissolution of Marriage, p. 146.

8:Howell E, G-5 (1942-1944)1954
FJ22 Nuer FJ22

848 684 legitimize his child by the payment of *ruok gaanke* while the marriage stands. A child cannot have two legal fathers at one time. It is for this reason that when an adulterer has been prevailed upon, or compelled by a court, to pay full compensation to the woman's legal husband—*ruok ciek* (not more, but sometimes less, than six head of cattle)—if a child is born and attributed to the act of adultery, all those cattle must be returned except *yang kule*,[1] which is not part of the indemnity but has special ritual significance. Unless this is done there may be confusion over the true legal father of the child: a confusion of *ruok ciek*, which is paid as compensation to the husband, and *ruok gaanke*, which should be paid to the woman's family to legitimize the child. In fact, there is not necessarily any confusion, because the compensation (*ruok ciek*) goes to the legal husband as damages, while *ruok gaanke* as a legitimization fee *should* go to the woman's family. A confusion may arise in the future, however, especially if there is a divorce, and usually a wronged husband will return the cattle without argument. This rule applies in all tribes west of the Nile, among the Zeraf tribes, and in Lou, but is not followed in Eastern Jikany.[2] We shall consider this matter again in connexion with divorce and adultery.

The Position of Children on Dissolution of Marriage

848 586 As will be seen later, if a legal union is dissolved the husband may retain legal parenthood of any children born prior to dissolution by leaving sufficient cattle as legitimization fees with his wife's family.[3]

Legitimization Fees: Recent Legislation

848 Fees payable for this purpose have varied considerably from one Nuer tribe to another. At the Chiefs' meeting of 1945, they were standardized as follows:

for a male child 5 head of cattle
for a female child 6 head of cattle.

Chiefs said that the fee payable for a girl should be higher than that for a boy because in the case of a girl the mother's family could expect to benefit materially on her marriage.

If a man declares his intention of legitimizing the child at once, he will not be expected to pay more than the five or six head of cattle, as the case may be. If, however, he disowns the child or declares that he will have nothing to do with it, he will have to pay a higher

[1] See also under Adultery (p. 156).
[2] See recent legislation on this subject, pp. 166–8.
[3] See under Dissolution of Marriage, p. 149.

8:Howell E, G-5 (1942-1944)1954
FJ22 Nuer FJ22

PART II

DIVORCE LAWS AND THE DISSOLUTION OF MARRIAGE

WE have seen that marriage is achieved by the performance of social and ritual ceremonies and the transfer of cattle to the kinsmen of the bride. It is now necessary to examine the reverse process by which a union is dissolved. This involves no public ceremonies or ritual, but only the return of bridewealth cattle, with various deductions in respect of rights received and, in the case of children, rights retained by the husband. A distinction must be made between active divorce in which both parties are living at the time of the proceedings, and dissolution of marriage which sometimes follows the death of the wife, though not the death of the husband. There is no distinction in terminology; both situations are *dak kwen*, 'the breaking of marriage', and the same general principles apply, but the details vary.

1. DISSOLUTION OF MARRIAGE ON DEATH OF THE WIFE

The death of his wife is usually considered to give the husband some right to claim the return of his cattle, although he will not always exercise that right. It will depend on a variety of circumstances. If the union has lasted a long time and the husband is on good terms with his wife's family, he may not wish to sever his connexion with them, though he will usually demand return of the bridewealth cattle if she has borne him no children at all. Her family will not necessarily dispute the case, and often wish to assist him. There is after all a human element in Nuer marriages which a coldly analytical approach tends to ignore. The birth of one or two children will alter the situation substantially. The father will in any case usually leave sufficient cattle to retain legal parenthood over them. The number of cattle varied in the past from tribe to tribe and, in some tribes, according to the sex of the children, but for two children a man will have to leave at least ten head of cattle (legitimization fees have now been standardized at five head for a boy and six for a girl),[1] and, after deduction of these, in some marriages there will not be many cattle left to return. Nowadays many Nuer get married with as little as twelve or fifteen head of cattle, and if some of them have died in the possession of the wife's family they will not be returnable. In other marriages a larger number of cattle may have been transferred, and

[1] See under Legitimacy of Children, pp. 128–35.

8:Howell E, G-5 (1942-1944)1954
FJ22 Nuer FJ22

586
768
848

their progeny may be considerable. There is no hard and fast rule, nor any convention which governs the attitude taken by the husband. At the same time his rights in such circumstances are usually clear, and nowadays a Nuer court will tend to uphold those rights even though they will nearly always attempt to find a compromise.

In fact disputes over the return of cattle when the wife has died are rare because relations between a husband and his wife's kinsmen are not strained, as they must necessarily be in a case of divorce where both husband and wife are living. No generalization is safe on this subject beyond saying that when the wife dies without issue the husband is likely to demand and receive without undue argument all his cattle; that if one child is born the wife's family will retain sufficient only to legitimize that child; and if two children are born the husband may be content to leave all his bridewealth cattle with the wife's family or may demand the remainder after deduction of legitimization fees. A Nuer court will sometimes allow the latter, sometimes not. If more than two children have been born the return of bridewealth is regarded as impossible. It is then considered that the wife has performed her obligations in this respect in full. It must be remembered that the birth of children is also an indication of the time factor and, generally speaking, the longer a union has lasted the less likely is it to be broken. I quote here four actual cases, taken from a large number of similar ones, which indicate both the principles and the tendency to follow them:

(*a*) *Majok Depyang* v. *Cah Macoat* (*Dok Nuer Case*)

Liah Macoat (brother of Cah) married Majok's daughter. The woman died leaving one male child. Liah then began to claim return of his cattle but died before negotiations were completed. Cah continued this claim as Liah's heir and further demanded return of all cattle and stated that he did not wish to legitimize the child. Chiefs' court ruled that all cattle should be returned with the exception of five head for the boy (*ruok muor*).

(*b*) *Carok Jyath* v. *Won Teang* (*Dok Nuer Case*)

Carok married Won's daughter, who died after bearing two children. Court ruled that Carok should receive all cattle paid by him after deductions had been made for the children.

(*c*) *Kwic Thowath* v. *Ngotkek Deng* (*Bul Nuer Case*)

Kwic married Ngotkek's brother's daughter. After bearing him three children she died, and Kwic demanded return of his cattle after legitimization fees had been deducted. Court ruled that the woman had fulfilled her obligations and that Kwic had no right to any cattle. Court, however, stated that Ngotkek should assist by payment of *ghok tuoke*.[1] This judgement was confirmed on appeal.

(*d*) *Cuol Dak* v. *Liep Balou* (*Dok Nuer Case*)

Liep married Cuol's daughter who died after bearing him four children. Liep subsequently claimed return of his cattle after deductions for the children

[1] *Ghok* (*yang*) *tuokr*. The significance of this payment is explained later.

8:Howell E, G-5 (1942-1944)1954
FJ22 Nuer FJ22

had been assessed. Court ruled that no dissolution of marriage was possible, but ordered Cuol to give Liep a cow (*yang tuoke*) 'for his sister's sons'. This judgement was confirmed on appeal.

These cases are not unusual, and similar disputes and judgements may be found in any court case book. They provide illustrations of the principle that on the death of a wife who has borne one, and in some instances, two, children, the husband may expect the return of all his cattle with the exception of sufficient for him to retain legal parenthood of those children. If, however, the wife has borne three or more children she is considered to have fulfilled her obligations, and there is no claim on her family at all, though they may be expected to assist her husband by payment of what the Nuer refer to as *yang tuoke*. This privilege sometimes extends to the husband's heirs, if he too is dead, should a cow or cows be required for milk for the children. The distinction is clear. In the first instance the union is dissolved and no longer exists, even though the children continue legitimate and therefore legally members of their father's lineage with all the privileges which that entails. In the second instance there is no dissolution at all, but the wife's kinsmen are expected to assist her widower, either to get married again or at least to bring up the children.

Ghok tuoke

Yang or *ghok tuoke* means literally 'the cow or cows of the cooking pot', and in this sense refers to the loss of the domestic assistance a husband should receive from his wife. It is also sometimes referred to as *ghok pithe gaat*,[1] or 'the cattle of bringing up the children'. There is therefore contained in the idea the necessity both of compensating a widower for this loss of domestic assets, and of providing him with cattle for the subsistence of the children of the union. The number of cattle which may be claimed varies considerably from tribe to tribe. Among the Lak only one cow at most is paid, while some tribes give as an ideal at least six head of cattle. The Leik, who are comparatively rich in cattle, give eight as the accepted number, and state a definite form of distribution among the dead woman's relatives upon whom the obligation falls. The brother and half-brother of the wife (*deman kwi mande* and *deman kwi gwande*) should each pay a cow; her father's uterine brother (*gwanlen mande*) and father's half-brother (*gwanlen gwande*) should each pay a cow; likewise her father's sister (*wac*) and mother's sister (*manlen*), her mother's brother and half-brother (*nar mande* and *nar gwande*) should each pay a cow.[2]

The payment of *ghok tuoke* is not always honoured, but it is a

[1] Here used in a different context from those claimed outside marriage (see pp. 111–2).

[2] In other words, an equitable distribution among the kinsmen of the wife, both paternal and maternal, who have already received a portion of the bridewealth according to the pattern of distribution.

8:Howell E, G-5 (1942-1944)1954
FJ22 Nuer FJ22

586
768

definite right, and a Nuer court will often enforce it. In this it is expressing public opinion, which feels that a reasonable man will in certain circumstances assist his brother-in-law and his sister's sons. There is, however, an obvious difference of opinion which may be seen in the four different views on the subject expressed by the chiefs at the meeting of 1945 as follows:

That if a woman dies after fulfilling her procreative obligations—

(i) The legal husband has a right to at least one cow, and the *ji cuongni rar* (the more remote relatives who have received a portion of the bridewealth) may be expected to give him an additional cow or two to help him to marry another wife; but this should be a matter of agreement and should not be enforced in the courts.

(ii) As above, but that the *ji cuongni rar* should be compelled to assist him if necessary.

(iii) No more than one cow should be given to the husband.

(iv) *Yang tuoke* plus one cow from the wife's maternal uncle's portion (*nare*) and one from the paternal uncle's portion (*gwanlende*) must be given to the husband.

In fact the payment of *ghok tuoke* is largely a matter of agreement; a compromise in the case of a man whose wife has died without issue, or with too few children to prevent him from claiming the return of all the bridewealth cattle; an obligation if his wife has fulfilled her obligations in this respect, and he cannot hope for any return. In the first instance, being a compromise and a convenient way of avoiding dissolution of the union, more cattle will be paid than in the second instance, where the payment is usually restricted to one, or at most two, cows.

Yang muon

When a wife dies without having fulfilled her procreative obligations at all and no children have been born of the union, the husband is sometimes expected to leave with her family one cow known as *yang muon*, 'the cow of the earth or burial', representing a token payment for the woman's death, if he claims the return of bridewealth. This is largely of ritual significance, but is sometimes given in place of the *ruath miemni* and *yang yaatni*, deductions left by the husband in divorce when both parties are living, which will be described later.

2. DISSOLUTION OF MARRIAGE WHEN BOTH PARTIES ARE LIVING

586

The simplest method of recording the law and circumstances relevant to divorce is to describe some of the commonest situations which arise as exemplified in actual cases brought before the courts. Before doing so, it is necessary to consider what the Nuer believe to be grounds for divorce.

8:Howell E, G-5 (1942-1944)1954
FJ22 Nuer FJ22

Grounds for Divorce

Marriage implies a stable relationship between the husband and his kinsmen on the one hand, and the wife and her kinsmen on the other. The relationship is maintained by a complex system of reciprocal obligations, duties, and conventional patterns of behaviour. In connexion with the actual relationship of the couple as individuals there are errors, breaches of good behaviour or of recognized rights which the Nuer will quote as the usual causes of divorce. A man may claim a divorce from his wife for the following reasons:

(i) *Barrenness.* If his wife fails to produce children at all, a divorce will usually be demanded by the husband, and all the cattle will be returned to him. If she bears only one child or two at most (again the exact number of children is controversial) and then fails to produce over a number of years, a divorce may follow and the cattle are returned with the exception of those left to legitimize such children as exist. Barrenness amounts to failure of the woman to fulfil those procreative obligations to which her husband has a legal right. Continued mortality among the wife's children is also a common reason for divorce.

(ii) *Nagging and Grumbling.* A Nuer may institute a divorce against his wife if she is an unpleasant character and wearies him with her continual grumbling, especially if, in a polygynous household, she fails to get on with her co-wives or with her husband's female relatives.

(iii) *Laziness.* A Nuer has domestic and economic rights in his wife, and he may call for a divorce if she is lazy in preparing his food, slack in household duties and in milking the cattle or cultivating the gardens. In this case she fails to fulfil her economic and domestic obligations towards her husband.

(iv) *Adultery.* A man may institute a divorce if he discovers that his wife has committed adultery, but he will rarely do so unless she persists in adultery either with one man or with a number of men.

(v) *Desertion.* If a wife runs away to live with another man, her husband is more likely to seek a divorce and the return of his cattle, although he may ignore the loss of her physical assets if she has borne sufficient children to his name.

These are the reasons given by Nuer if asked to quote the usual causes of divorce when instituted by the husband. In this the attitude of mind is not confined to the individual but extends to the kinship group. Therefore there must usually be a reason which is accepted as a conventional one and will receive the backing of the husband's relatives and be recognized by the community in which he lives. The actual cause of divorce is usually a combination of such reasons; the wife is lazy and also an adulteress; or she is lazy besides

8:Howell E. G-5 (1942-1944)1954
FJ22 Nuer FJ22

586 bearing no children; or she is all of these things. By far the most important consideration, however, is her function in producing male children to further the name of the husband's lineage, or female children to bring to them cattle in the form of bridewealth—in itself a means of marrying women into the group and therefore producing more children to the name of the lineage. It is her function in furthering the continuity of the kinship group in posterity which concerns her husband's kinsmen most acutely.

The reasons given by the husband as grounds for divorce, or the reasons which make him wish for a divorce, are less cogent than those which must be produced by a wife to convince her family that life with her husband is no longer bearable. Her family have in a sense much more to lose, for they must return the bridewealth cattle, and it often happens that they will not receive so many on her remarriage, especially if she has a reputation for barrenness or for being a shrew. In these circumstances they will resist the demands of the wife for dissolution of marriage as much as they can. The grounds for divorce which will receive the support of a wife's family are as follows:

(i) *Impotence or Sterility of the Husband.* A woman may divorce her husband if she bears no children and it is known that her husband, a man of virile years, is impotent. In such a situation her family will usually acknowledge her plea for a divorce and allow her to marry elsewhere, even though her husband has paid a very satisfactory bridewealth for her. If, however, the husband is an old man of failing physical powers they have probably arranged the marriage out of greed for his cattle or the desire for a useful political alliance, which is an important consideration, and may use force to compel her to stay with her husband. But in most cases of this sort the husband will allow his wife to take a lover and will be glad if she begets children by this means, for the children are legally his own.

[574] (ii) *Stinginess.* Stinginess is sometimes cited as grounds for divorce. The husband may resent his wife's hospitality to her friends and neighbours, and meanness of this sort is considered particularly reprehensible by the Nuer. What is really meant by this, however, is that the husband is stingy in the giving of those small items—food, tobacco, presents of spears and so on—which his wife's people expect. These are not legal rights but obligations inherent in the marital relationship, and they symbolize the respect he should have for all his wife's relatives.

(iii) *Failure to support the Wife.* If the husband fails to fulfil his economic duties towards his wife and children; if he is too lazy to cultivate, too lazy or weak to hunt or fish, or too poor in cattle to provide sufficient milk, her family may seek a divorce. A husband, however, who is poor in cattle may make up for the deficiency by industrious cultivation, hunting, and fishing.

8:Howell E, G-5 (1942-1944)1954
FJ22 Nuer FJ22

(iv) *Ill-treatment.* A woman may demand a divorce and receive the support of her family if her husband persistently ill-treats her (*cieng jiegh*) or beats her without reason. Her brother will often seek to protect her from serious maltreatment, and her family are interested in her welfare. 586

Whether the family of the wife will support her depends on a variety of circumstances and a combination of all matters which are conventionally regarded as grounds for divorce. They may agree with her if her husband not only persistently ill-treats her but also is lax in his duties towards them or does not approach them with the respect (*thak*) which is due to relatives-in-law. If he has paid substantial bridewealth for her, it is, of course, in their interests that the marriage should continue, but this may be outweighed by other considerations. It is their desire too that a daughter of the house should have children, though their feeling in this respect is not so intense as that of the husband's family. Her children, although legally placed in the patrilineal lineage of their father, will be an asset to the maternal line. We have seen that in the marriage a substantial part of the bridewealth goes to the maternal kin, and the matter of the husband's potency is therefore of practical concern to them. Moreover the final consideration which will often compel them to seek a divorce, whatever the difficulties and inconveniences to themselves, is the fear that she will run away to some other part of the country, in which case they may lose not only the cattle of this marriage but the possibility of getting others from her remarriage. In extreme cases she may even commit suicide.[1] [762]

It is the interaction of all these considerations and circumstances which determines the stability of marriage or the reverse. They are in fact features of the relations subsisting between the two groups concerned: first between the husband and his wife, then through them between their families and by extension between the two kinship groups as a whole. As children are born of the union, so stability increases and the likelihood of dissolution by the return of bridewealth gradually disappears until, in the event of three or more children having been born and still living, the possibility of a return of the bridewealth no longer exists, and it is no longer legally possible to claim it. This is recognised in Nuer law now administered in the courts, for, as we have seen, it is reckoned that a man cannot have a right to the return of any portion of his bridewealth if his wife has borne him two or, in the case of some tribes, three children who are still living. In fact, he would rarely seek dissolution, even if his wife had left him or was dead, for the disadvantages of her absence from his home are

[1] This is not common, but I have known several cases, and in one instance a woman attempted to hang herself from a tree under which I was sitting in an official capacity. The intention, however, may not have been serious, but merely to draw my attention to her grievances.

8:Howell E, G-5 (1942-1944)1954
FJ22 Nuer FJ22

586 offset by the existence of the children as well as the advantages he receives from close and amicable relations with his wife's family.

General Observations

586 178 Nuer sometimes say that divorce was rare in the old days, and that when the marriage ceremonies had reached the stage of the *muot*, and even more so if a child had been born, neither side was at all likely to seek one. It is also said that if a woman died before or during the birth of her first child, her husband had no right to claim back his cattle: the responsibility rested with him. It is not now possible to assess the truth of a general statement of this sort, particularly as the informant can rarely quote actual examples, but it is clear that the number of cases of divorce which are brought before the courts is considerable and is increasing.

This is, perhaps, a reflection of the wider process of social disintegration which is taking place in Nuerland. The modification in those sanctions which make for social solidarity is likely to react on the institution of marriage as well as on the integration of the kinship group. Moreover, I suggest that the stability of marriage is deeply affected by the attitude of the parties concerned. If there was less chance of recovering bridewealth cattle or less chance of escape by the wife, they would be more likely to make the effort necessary for a successful marriage. Nuer imply that in the past it was not easy for a husband, having entered into marital relations with the bride's group and confirmed the marriage by the performance of the *muot*, to recover his cattle should he no longer want his wife. It was therefore in his interests to make a greater effort to retain his wife's affections and to fulfil the conventional obligations towards her and her relatives. She might run back to her home and, unless he had the support of a numerically superior community, he might find it difficult to obtain redress. Clearly the situation was affected by many different circumstances, and not least of these was the relative position in the social structure of the kinship groups involved and the distance in space between them. Divorce was not so easy, the husband had to make greater efforts to retain his wife, and probably entered marriage with greater care and consideration than he does today, although the slow process of courtship of girls and the eventual choice of a mate is presumably the same as it has always been, and is in itself a factor making for stability when marriage comes.

The comparative facility with which divorce can be obtained through the agency of the courts today means that the husband need not make so great an effort as in the past, because his cattle are nearly always recoverable. It might, of course, be argued that the wife's family must be more conciliatory towards the husband because divorce is

8:Howell E, G-5 (1942-1944)1954
FJ22 Nuer FJ22

recognised and is enforceable in the courts, and they have a greater chance of losing their cattle. I do not think that these are really major considerations because the Nuer do not think of marriage entirely in terms of cattle, but rather in terms of the union of which the cattle are merely a material symbol. Moreover, and this must be stated at once, the courts do not regard divorce with favour at all, and every effort is made by the court members to prevent it. There is intense feeling on this subject, and divorce is a symptom of social disintegration of which the Nuer are themselves aware. It is not so much the possibility of legal enforcement as the general recognition that divorce is possible at all, particularly after the *muot* and after children have been born of the union, which is the cause of the increase in the number of divorces. Added to this is the fact that union of peoples required for political security is less necessary than in the past, and therefore intermarriage does not serve the same purpose as it did then.

These features are apparent not only in the increased number of divorces but in the growing body of law concerning marriage and divorce which is administered in Nuer courts today. A complex system of law is only necessary when social relations cannot be controlled or maintained by any other means. Now that the sanctions which governed those relations are modified by external influences there is a greater need for law, and an evolutionary process can be seen, particularly because the courts are backed by legal sanctions entirely unknown in the past.

The following are a few representative cases which illustrate the processes of divorce and the circumstances accepted by the courts as sufficient grounds.

Dang Kang v. *Nyag Rih* (*Ash Nuer Appeal*)

Dang married Nyag's sister. There were no children, and Dang demanded a divorce on grounds of his wife's barrenness. This was refused by the court in the first instance but was allowed two years later by the appeal court.

Nuer courts will usually allow divorce on grounds of barrenness, but demand adequate proof. The passage of time (in this case about five years—including two years between the initial dispute and the appeal) is therefore relevant. Judgement against divorce by the court in the first instance and then reversal on appeal is therefore a common occurrence. By instituting proceedings the husband is bringing to the notice of the court and of the public his allegation that his wife is barren. The passage of time between this and the hearing of the appeal is then taken into consideration.

In some cases the birth of one child followed by non-productivity is grounds for divorce.

8:Howell E, G-5 (1942-1944)1954
FJ22 Nuer FJ22

586

Kec Kuoyok v. *Weir Lam* (*Leik Nuer Case*)

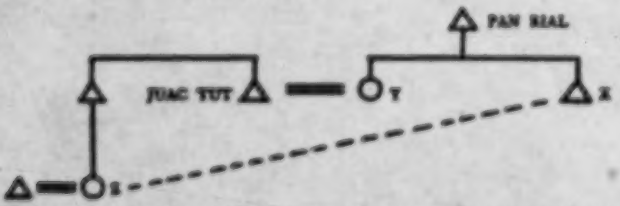
Kec married Weir's sister. During the five years of their marriage she bore only one child, and Kec demanded a divorce. This was refused by the Leik court, but allowed two years later by the appeal court. In this case all cattle were returned to Kec with the exception of sufficient to retain legitimate parenthood of the child.

Kelwal Tutrol v. *Kong Kepkeap* (*Bul Nuer Case*)

Kelwal married Kong's daughter. There were no children of the union, and Kong demanded a divorce for his daughter on the grounds that Kelwal was impotent. Kelwal appealed to the court against this demand, but judgement was given against him.

This case is simple enough, but illustrates clearly that impotence or sterility on the part of the husband is equally a ground for divorce. It also shows that Nuer are interested in the children of their daughters, although they will belong legally to another lineage.

Juac Tut v. *Pan Rial* (*Leik Nuer Case*)



Juac Tut married Pan Rial's daughter Y. X, Y's brother, committed adultery with Z, Juac's brother's daughter. Juac then demanded a divorce from Y on the grounds that the act was virtually incestuous. On the first hearing the court refused the divorce, but on appeal all bridewealth cattle were returned to Juac.

Breaches of this sort of conventional behaviour and normal obligations between relatives-in-law are often compounded by payment of gifts and, in the case of incest, by ritual expiation.

Impediments to Marriage Discovered Subsequently

Two other exceptional circumstances which sometimes result in divorce must be mentioned.

Incest

586
582
835

At any stage of the marriage it may be discovered that the union is incestuous (*ruai*), in which case, unless the consanguinity is extremely remote, the marriage must be instantly dissolved. Such an occurrence must be rare[1] among the Nuer, for we have already seen how

[1] Within my own personal experience in Nuerland, I have only known of one case in which a marriage had to be dissolved owing to kinship between husband and wife. At the same time such cases are unlikely to appear before the courts or be the subject

8:Howell E, G-5 (1942-1944)1954
FJ22 Nuer FJ22

elaborate precautions against such a contingency are taken at the wedding ceremonies. By previous enquiry and by public invocation of the names and distinctions of the clan at all stages of the process of marriage great care is taken to avoid a breach of the rules of exogamy. There is no great condemnation of extra marital sexual relations with distant clanswomen, and the degree of disapproval and of the severity of the consequences is relative to the position in the kinship structure of the persons concerned. The prohibition of a legal union in such circumstances is more constant, and the discovery of any kinship tie which would normally be an impediment to marriage nearly always necessitates dissolution. There are ritual means by which the contamination may be neutralized, but the risk involved in the continuance of permanent union would be considerable, for the Nuer do not consider that the ritual is infallible.

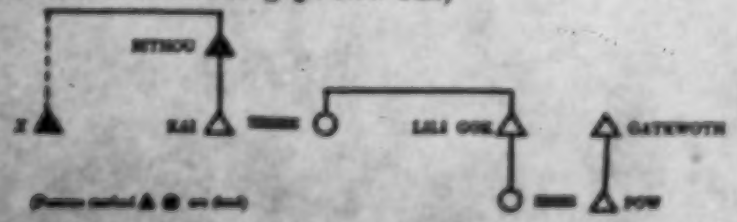
586● 582 835

Blood-Feuds

There are other circumstances which may be a bar to marriage. Nuer will say that there is 'blood between' certain lineages: *teke riem kumdiw*, meaning not blood in the sense of kinship, but the spilling of blood and therefore latent hostility derived from a past and unsettled feud. This is not necessarily a serious bar to marriage, and presumably depends on the feelings of the people concerned. Yet if a marriage does take place in such circumstances, and is followed by disasters in the form of sickness and mortality among the children, the existence of a feud between the lineages will often be given as the cause. Yet marital relationships are a means through which blood-feuds can be amicably composed, for unless the indignation is exceedingly intense, the opposed groups will not wish to break with each other if linked by the many ties raised by intermarriage. Dissolution of marriage on these grounds is rare, and I am able to quote only one example:

586 628

Kai Bithou v. *Lili Gok* (*Jagei Nuer Case*)



Kai Bithou married Lili Gok's sister. A man called Puw Gatkwoth then married Lili's daughter. Previously Puw's father Gatkwoth had killed a close

of dispute. The spiritual danger involved is sufficient sanction for the immediate dissolution of the union and the return of all the cattle, or, alternatively, for the performance of ritual to break all kinship between the parties (*dak nueer*).

8:Howell E, G-5 (1942-1944)1954
FJ22 Nuer FJ22

586 628

kinsman of Kai's (x). Kai then claimed dissolution of marriage on the grounds that there was 'blood between them'. On appeal the court was divided. The minority were of the opinion that dissolution was essential; the majority ruled that, since compensation had been paid for the act of homicide and the feud settled by the Leopard-Skin Chief, no bar to marriage existed. It will be noted that Lili's family are not involved in the feud, and Kai's contention is that Lili, by marrying his daughter into a family who are concerned, has brought himself within the range of the impediment. At the same time Gatkwoth was the actual killer of x, not merely an agnatic kinsman of the killer, which intensifies the feeling of indignation.

In this particular case, it is doubtful whether Kai wanted a divorce merely because of these circumstances, or whether the 'blood between them' provided a reasonable excuse for a divorce which he desired for other reasons.

For this reason it is safe to conclude that, although the existence of a feud is considered a serious bar to marriage, the action taken in such circumstances depends largely on the actual relationship in the kinship structure (in this case extended to marital relationships) of husband and wife to the killer and the killed. It also depends on the actual terms on which the two families are living, for if neither party wishes for dissolution some means will be found of avoiding it.

Circumstances in which Divorce is Considered Impossible

586 Nuer consider that the dissolution of marriage, instituted by either party, is impossible if the wife has fulfilled her procreative obligations. Generally speaking, though this point is sometimes controversial, two living children constitute fulfilment in this respect. Three are always sufficient. This, as we have seen, applies also when the wife dies, and examples have been given to illustrate the point. Two further examples are recorded here, there being no difference except that both parties were living at the time of the dispute.

Riak Teng v. *Kuk Diet* (*Dok Nuer Appeal*)

Riak's sister was married to Kuk Diet, twenty-three head of cattle being paid as bridewealth. Kuk subsequently claimed a divorce on grounds of his wife's desertion. Original judgement was reversed by the appeal court on the grounds that two children had been born of the union. Riak was ordered to arrange the return of his sister to her husband.

Puot Teng v. *Bilio Banyppiny* (*Lak Nuer Case*)

Puot married Bilio's sister. She bore him three children, and then deserted him for a man called Jany Mabor. Puot raised the case before the Lak (Kwachor) court but the court ruled that no divorce was possible.

These are simple cases. A Nuer court will always attempt to bring about a reconciliation, but if this fails, which is often the case, the woman continues to live with her lover, her children and any born subsequently remaining those of her legal husband. There are, however, borderline cases which sometimes cause perplexity. In particular, the

8:Howell E, G-5 (1942-1944)1954
FJ22 Nuer FJ22

586

question whether children who have died in infancy should count is a controversial one. Among most Nuer tribes it is generally accepted that those which die in early infancy should not be so counted. From the legal point of view a small child is not considered a being at all, and if it dies before cutting its second teeth no mortuary ceremonies will be performed. Nor will a 'ghost-wife' be married to its name, though there are many exceptions to this rule, especially when there are few adult males to represent the lineage. The test ultimately lies in whether mortuary ceremonies have been performed or not, and the situation is not uncommon owing to the high rate of infant mortality among the Nuer. Opinion, however, is often divided, as is illustrated in the example of Ghuth Bangoany *v.* Riak Buth recorded below.

3. RULES CONCERNING THE RETURN OF BRIDEWEALTH CATTLE ON DISSOLUTION OF MARRIAGE

Deductions: ruath miemni and *yang yaatni*

I have explained that when a marriage is dissolved on the death of a wife who has not fulfilled her procreative obligations, all cattle must be returned to the husband with the exception of sufficient for him to retain legal parenthood of any children (*ruok gaanke* or *ruok muor*), and sometimes a cow referred to as the *yang muon*, 'the cow of the earth' or 'mourning'. When both parties are living, similar deductions are made for children, though naturally there is no claim for *yang muon*. There are, however, other deductions which are deemed necessary. These are known as the *ruath miemni* and the *yang yaatni*. *Ruath miemni* means literally the 'bull-calf of the hairs', and refers to the shaving of the wife's hair at the *muot* ceremony, while *yang yaatni*, 'the cow of the skirts', refers to her ritual dressing in the married woman's skirt (*yat*), and hence her change of status from girl to married woman. These deductions are therefore considered just recompense for the wife's loss of maidenhood. They will not usually be demanded by her family if the husband is willing to leave cattle with them to legitimise any children born of the union. I do not think that *ruath miemni* and *yang yaatni* are often paid when the wife dies. They are essentially payments demanded in divorce when both parties are living, and some Nuer say that they should not be made if it is the wife who is at fault. There are, however, obvious exceptions which the following example shows, and the law on these points is not everywhere consistent.

Ghuth Bangoany v. *Riak Buth* (*Lou Nuer Case*)

Ghuth married Nyabieli for 15 head of cattle paid to the kinsmen and heirs of her father Lathuec. She had two sons who died in infancy. Nyabieli

8:Howell E, G-5 (1942-1944)1954
FJ22 Nuer FJ22

•586 then died, and Ghuth claimed dissolution of marriage and return of the bridewealth. Court ruled that no dissolution was possible because Nyabieli had fulfilled her procreative obligations by bearing two sons for whom mortuary ceremonies had been performed. Ghuth, however, was granted *yang tuoke*. On appeal Ghuth was granted return of all his cattle save two (*yang mande* and *yang gwande*), these being counted as *ruath miemni* and *yang yaatni*. Both judgements, though entirely different, are logical. The original court ruled that the children though dead should count as living, and that no dissolution was possible. Ghuth could therefore only claim *yang tuoke*. The appeal court ruled that the children could not be so counted, and that therefore Ghuth was entitled to return of his bridewealth cattle. This was tantamount to saying that Nyabieli had borne no children at all. Hence, though Ghuth was entitled to his bridewealth, Nyabieli's kinsmen were entitled to *yang yaatni* and *ruath miemni*.

Original Cattle or Substitutes

Theoretically the original bridewealth cattle must be returned, and with them their offspring, even if born after they have been passed on by the wife's family as bridewealth in their own marriages or further still. This rule is presumably a survival of the days when divorce was comparatively rare, at any rate in instances where all ceremonies had been performed and children born of the union. In the early stages of marriage the cattle will not have moved far afield because there will have been little time for them to do so and their progeny will not be numerous. The complications of collecting thirty or forty head of cattle plus all their offspring born over a number of years will be realized. It is now generally accepted that unless the original cattle are actually in the possession of the wife's family, no return is possible, and that substitutes may be provided. This in itself often leads to dispute because endless arguments arise as to the relative merits of the cattle produced as substitutes as compared to the original cattle. This is, of course, a feature of most disputes which appear before a Nuer court.

Cattle which are not Returnable

Bridewealth cattle are not returnable to the husband on divorce or dissolution of marriage if—

(*a*) *While in the possession of the wife's family*, they have died of disease or have been killed by wild animals or lost by reason of some other misadventure. The wife's family is not held responsible for providing substitutes, although the husband is not expected to replace such casualties while the marriage continues. Animals passed on in other marriage transactions, or sold or slaughtered for meat, must be replaced by substitutes.

(*b*) *While in the possession of the wife's family*, they have been paid as compensation for homicide or in payment of fines imposed by the courts. This does not apply to compensation for other offences

8:Howell E, G-5 (1942-1944)1954
FJ22 Nuer FJ22

nor to the normal settlement of debts. This is an interesting point of law because it shows that the enforced payment of compensation (*thung*) and the imposition of punishment in the form of fines are regarded as acts of God rather than the individual responsibility of the offender. It is of course assumed that the bridewealth cattle were used for one of those purposes unwittingly and without previous knowledge that owing to divorce their return would be demanded. The first rule (*a*) appears to be traditional, the second (*b*) is probably a recent development though there are no records of legislation or of intervention by the Administration.

Further Rules in Divorce

A Woman may not be remarried until Previous Marriage has been Dissolved

It is a fundamental rule that a remarriage cannot take place until the previous marriage has been dissolved and all the necessary cattle returned to the husband. Nor may bridewealth cattle from a remarriage be used to pay back cattle owed on a previous one where the same woman is concerned. This sometimes occurs, but is rare because there is a religious sanction as well as a social one involved. Nuer say that the cattle should not mix and that if they did disasters would follow.

Wiea Nyah v. *Nyadoiny Yol* (*Bul Nuer Appeal*)

Wiea married Nyadoiny's daughter X, who bore him one son. Wiea then demanded a divorce on grounds of desertion. Nyadoiny is a widow, and her late husband had no close kinsmen. She had already used some of the bridewealth cattle in payment of previous debts incurred by her late husband, and was unable to return all the bridewealth. Seven cattle remained outstanding. Dayim Turuk then began negotiations for marriage with X and paid several head of cattle. Wiea immediately claimed these through the courts. Appeal court ordered return of all cattle to Dayim and return of X and child to Wiea. The union between Wiea and X was still considered legal, while Dayim's cattle had been received illegally.

Return of Extra-marital Payments

Payments made as gifts or as compensation for minor offences against prescribed marital relationships are not normally claimable by either party on divorce. Such payments are considered outside the general bridewealth transactions.[1]

This and other points are illustrated in the following cases:

Gac Cuol v. *Mathot Cung* (*Nuong Nuer Case*)

Gac Cuol married Mathot's sister. He then divorced her on grounds of her infertility. All cattle were returned to Gac with the exception of one cow-calf,

[1] As will be seen later, offences by an outsider against the husband's physical rights in his wife are treated differently (see p. 166).

8:Howell E, G-5 (1942-1944)1954
FJ22 Nuer FJ22

586 587

which Mathot alleged had been killed by a lion while in his possession. Gac disputed this, and further claimed a cow from Mathot on the grounds that he had previously given Mathot two mosquito nets (value: 150 piastres). Court ruled that:

(i) Cow-calf had been killed by a wild animal while in Mathot's possession. He was therefore not responsible.

(ii) The mosquito nets were a gift outside the transaction of marriage, and were not reclaimable in any form.

Riak Deng v. *Gatbuok Nyak* (*Nuong Nuer Case*)

[576]

Gatbuok married Riak's sister. In the first year of marriage Gatbuok was profoundly shocked because his wife urinated in his cattle-byre.[1] This nearly led to divorce, but the affair was patched up by Riak paying Gatbuok 40 piastres as compensation to 'ease his heart' (*pale loic*). With this money and some of his own, Gatbuok bought a cow which subsequently produced five calves. After five years the marriage was dissolved at Gatbuok's request. Riak then claimed the cow and five calves, which in his opinion were his legal right. Court ruled that Gatbuok had the right to retain only the original cow, while Riak should have the offspring. This ruling was given after considerable argument, and was an obvious compromise. The judgement was reversed on appeal on the grounds that the 40 piastres was paid as compensation for a definite offence committed by the woman, was not part of bridewealth, and was therefore not returnable in any form.

Gatkeg Luop v. *Tutdel Turuk* (*Jikany Nuer Appeal*)

Tutdel was court policeman under Chief Gatkeg Luop. Tutdel subsequently married Gatkeg's daughter, but divorced her. All cattle were returned to Tutdel, but Gatkeg claimed one cow previously given to Tutdel. Court ruled that the cow had been given to Tutdel as a gift in return for his official and personal services and was not affected by the marital relationship of the two. Gatkeg had no claim on the cow. This was confirmed on appeal.

Divorce of Widows living in Leviratic Union or 'Widow-Concubinage'
(see pp. 78, 81)

Generally speaking, the death of the husband precludes the possibility of dissolution of marriage. A Nuer court will not allow proceedings for a divorce to go through unless the husband is present to state his claims. This applies even when no children have been born of the union previous to the husband's decease or subsequently in leviratic union or 'widow-concubinage'.

Can Lony v. *Kolang Cal* (*Leik Nuer Appeal*)

Can's paternal uncle married Kolang's sister. The uncle then died, and Can took the woman to live with him. Can then claimed a divorce on grounds of the woman's barrenness. Appeal court upheld previous judgement that no dissolution was possible even though the woman had borne no children at all.

Riak Kwar v. *Latjor Kwon* (*Dok Nuer Appeal*)

Gatmac Kwar married Latjor's sister. Gatmac died, and Riak took over the woman in leviratic union. She then deserted him for another man. The

[1] A breach of good manners and a particularly reprehensible offence because it was done in the cattle-byre (*luak*), which is the exclusive stronghold of the male sex.

8:Howell E, G-5 (1942-1944)1954
FJ22 Nuer FJ22

woman had one child. Riek then demanded dissolution of the union but this was refused both in the original court and on appeal.

I think that Nuer feel that a widow should have a wide choice as to whom she takes as her lover after her husband's death and that, provided the rights of the deceased husband, including the legal status of the children, are recognized, there should be no interference. Dissolution on grounds of barrenness is, however, sometimes accepted, especially if the marriage had not lasted long before the husband's death. The age of the widow is therefore relevant, and it must be remembered that a young and attractive woman is likely to be guarded more closely by her late husband's kinsmen than an older woman. In the first instance physical rights over her are in issue, in the second only domestic and economic rights, and the emphasis is on her ability to produce children to her late husband's name.

In 'ghost-marriage' the position is different. The vicarious husband is regarded as the principal, and if the reasons were sound and acceptable, a Nuer court would undoubtedly allow dissolution. 'Ghost-marriages' are in fact treated in exactly the same way as simple legal marriages.

4. SUMMARY

Based on these principles the law of divorce is rarely disputed, and cases which appear before the courts usually concern specific claims for cattle which have not been honoured. For example, a divorce takes place, and all cattle are returned save two. The wife's people ask for time to find them, and the debt hangs over for a number of years, possibly until the next generation. A dispute may then arise as to whether the cattle were actually *paid or not or whether their theoretical* increase in the interim should be taken into consideration. Though there are points which are sometimes disputed, Nuer divorce laws, unlike so much of the customary law administered in their courts, can be conveniently summarized:

Dissolution of Marriage owing to Death of Wife

(i) A △ marries B ○. B dies before bearing any children to A. A has a right to demand the return of all his cattle paid as bridewealth. Among some tribes he might be expected to leave one cow as *yang nuaar* (the 'cow of burial') with her family, but this is a ritual payment rather than a specific deduction.

(ii) A △ marries B ○. B dies leaving one child alive. A is entitled to the return of all his cattle, but will usually leave sufficient to retain legal parenthood of the child (*ruak nuaar* or *ruak gaanke*).

(iii) A △ marries B ○. B dies leaving two children. In some tribes B will be said to have fulfilled her procreative obligations, and a dissolution of marriage therefore is unwarranted. In other areas A might expect the return of all his cattle less deductions for the two children.

8:Howell E. G-5 (1942-1944)1954
FJ22 Nuer FJ22

586

(iv) A △ marries B ♀. B dies leaving three children. In all tribes B is said to have fulfilled her procreative obligations to A and no divorce will be allowed.[1]

(v) In the circumstances described in (iii) and (iv) above, A might expect assistance from his relatives-in-law in the form of *yang* or *ghok tuoke* varying from one cow to eight head of cattle, provided that there has been no dissolution.

Divorce when both Parties are living

(i) A △ marries B ○. A institutes a divorce on grounds of B's misbehaviour, and before any children are born. A can expect the return of all his cattle.

(ii) A △ marries B ♀. A demands a divorce for no accepted reason. No children have been born of the union. A can expect the return of all his cattle with the exception of *go—ruath miemni* and *yang yaatni*.[2]

(iii) If children have been born of the union and are living at the time of the proceedings, A will almost invariably leave sufficient cattle to retain legal parenthood. He will not, however, be expected to pay *ruath miemni* and *yang yaatni* in addition to these fee.

(iv) If two children are born of the union, or in some tribes three, a divorce is not considered possible, and will certainly not be allowed in the courts unless the circumstances are exceptional—e.g. if the wife deserts her husband and refuses to return, but even then he will usually waive his domestic and physical rights in her provided she continues to bear children who remain legally his.

These rulings contain the general principles, but it must be emphasised that there are often cases where exceptions are accepted as valid. One does not know how far these rules were followed in the past, or how much they are the product of more recent case law. There are still anomalies and points which are confused, and the law of divorce has not yet developed to its logical conclusion. The general concepts which are behind such claims as *yang muon*, *ghok tuoke*, *ruath miemni*, *yang yaatni* and *ruok gaanke* are known to most Nuer. The precise interpretation in different circumstances varies from region to region, and recent discussions at the Nuer Chiefs' Council have not yet achieved complete standardization.

[1] Commenting on this statement, Captain G. S. Renny says of Eastern Nuer: 'I think that even in the case of three children all cattle would be returned to the husband less legitimization fees. Strictly speaking the divorce should go through and the legitimization of the children be carried out as a separate transaction.'

[2] As we have seen, some Nuer tribes say that these payments should be made by the husband whatever the circumstances. See also Evans-Pritchard, *Kinship and Marriage among the Nuer*, p. 91.

8:Howell E, G-5 (1942-1944)1954
FJ22 Nuer FJ22

occurred, were forceful retaliation or self-help; social reprobation within the community and unpopularity, loss of prestige and privilege, and so on. The force of these sanctions was neither constant nor continuous, but they were certainly effective in some instances. The sanctions were variable and their effect was relative to the position in the social structure and the actual daily proximity of the persons concerned, and depended also on the political relations prevailing between the tribal segments to which they belonged. Nowadays these matters are to a greater or lesser degree brought before the courts and a settlement is enforced. Customary procedure has become law in the more precise definition.

This may be attested by reference to the examples already recorded in detail. It is, for instance, customary, on the death of a wife who has not fulfilled the required procreative obligations, for the bridewealth cattle to be returned to her husband, thus dissolving the union, though the wife's family may usually claim certain deductions. The Nuer regard this procedure as logical and correct, though it is doubtful whether it was followed in the past, especially as the dissolution of marriages appears to have been less frequent or even impossible after some years of marriage had elapsed. If the marriage is not dissolved, either because the husband does not wish it or because the wife has already borne sufficient children to stabilize the union for all time, her family may be expected to assist the widower by payment of certain cattle (*ghok tuoke*), which will be used to feed the children or to enable him to marry again so that 'there may be a mother in the home'. This may be regarded as a matter of custom, for in the past the payment doubtless depended on the terms on which the husband and his dead wife's family continued to live. This is also true today and most situations of this sort call for no dispute. If this custom becomes a subject for litigation and appears before a court, payment may be enforced. The court will begin by saying to the wife's family that it is customary to give *ghok tuoke* in such circumstances and that the husband is in the right: *teke cuong*, 'he has a right'. They are taking as a criterion what a reasonable Nuer may be expected to do in similar circumstances, and will call upon the wife's family to conform to that criterion, but, after persuasion, they will in the final event enforce this decision with the threat of punishment if it is not followed. To quote another example: in marriage, it is customary for the bride's father's age-mate to receive a cow called *yang ric*. The special relationship between the bride's father and his age-mate, and symbolically the intimate association of all age-mates, is thus socially recognized. If questioned the Nuer would undoubtedly say that the age-mate has a right (*cuong*) to this cow. Further, there are three different sets of people involved in this transaction. In the first place the bride's family are concerned with

11:Evans-Pritchard E-5 (1931, 1936) 1945
FJ22 Nuer FJ22

587 768 593 milks the cows, and performs other domestic services for her sons. If she is dead and her eldest son is married his wife acts as a cook, housekeeper, and dairy maid, for her husband's brothers and sisters. Unmarried youths are then dependent on the wife of a full brother for daily necessities and if he dies and his wife does not consent to live with one of them they lose not only a sex-mate but also a housekeeper, cook, dairy maid, and gardener. They therefore strongly object to her going to live with a lover outside their village. If they are on good terms with their half brothers they will not resist her desire to live with one of them but will group themselves around the half brother whom she has chosen to live with, and will share his byre and enjoy the services of their dead brother's widow in his homestead. I was told that if they are not on good terms with their half brothers they may object to the widow living with one of them and may tell her that if she refuses to live with a full brother of her husband she had better take a lover outside their kin and bear children to the dead husband by a stranger. Occasionally a widow lives with her husband's sister's son.

The very limited control of brothers over the widow of one of them is seen in domestic facts rather than in legal theory. In fact many Nuer widows do not live with kinsmen of their dead husbands. Among the Eastern Nuer it is hoped and expected that a young widow will consent to live with one of her husband's brothers or sons and her husband's kinsmen try to persuade her to accept this arrangement; but it is rare for them to force her to choose between divorce and leviritic marriage and, if she declares firmly at her husband's mortuary ceremony that she will not live with one of his kinsmen, they permit her to take any lover whom she chooses. She then goes to "Give birth in the bush" (*dieth dor*), as the Nuer say. This means that she either continues to occupy her dead husband's homestead and there cohabit with one of the villagers, or that she leaves the village and goes to live as concubine to a stranger elsewhere. [618] [617] Her husband's people permit her to take this course because all the children she bears are their children, being counted as sons and daughters of her dead husband. Her husband's people have legal rights over the children and may take charge of them in which case the mother, when she is old and past child-bearing, will probably return to her husband's home to be with her grown-up sons. "When a widow who has gone to live with a stranger is old and can bear no more children she will cease to wander and will return to her husband's people and settle there with her children."

Among the Western Nuer the kinsmen of a dead man insist that if his widow has not borne children, or has borne only one child, she must live with one of them. If she refuses they may claim back their bride-cattle [586] i.e. divorce her. If she has borne one child they leave six head of cattle with her parents to retain control of the child and to affiliate him to their lineage. But if she has borne two or more children to her dead husband his people cannot claim back their bride-cattle if she refuses to live with one of his brothers. *Ghok te jokdien ku nath cau ku de lony*, "Cattle which have children on their backs cannot be returned".

11:Evans-Pritchard E-5 (1931, 1936) 1945
FJ22 Nuer FJ 22

587 768 593 591 dead, so that they may view with equanimity the departure of the widow and her children, having no feelings of close parentage towards the sons and being assured that they will receive whatever bride-wealth is their due on the marriages of the daughters, wherever they may be brought up.

[611] Most depends upon the decision of the widow herself (*riet cek*). If she determines to live away from her husband's village with a stranger his kinsmen warn her that any children she may bear are the children of her husband and that one day they will bring them to their father's home. Among the Eastern Nuer, only if she does something that deeply offends [586] them will they divorce her. Among the Western Nuer they may divorce her if she has not borne her husband two children but how often this is done I cannot say.

Occasionally, I was told, a man directs (*nop*) from his deathbed that a certain kinsman is to live with his wife. It is difficult for a woman to defy [776] such an injunction because Nuer believe that if she does so the ghost of her husband will haunt her and she will cease to bear children or her children will die.

587 611 A widow who lives with a stranger after the death of her husband is called *cek ma lak* and a child born of such a union is called *gat laka*. The children of a widow wherever they are born, or by whomsoever begotten, count as children of her dead husband, the man to whom she was married by payment of cattle, whether she was married to him in his lifetime or vicariously after his death. If the husband dies, or was already dead before his marriage, the actual configuration of the household may alter but the formal structure of the family remains the same. Indeed the family may never be a group of people with real interrelations because the husband and the father may have died many years before his marriage to his wife and the birth of his children. Among Nuer the pater is the husband to the mother. His legal fatherhood is defined by his status to the mother of the children and not by his physiological functions.

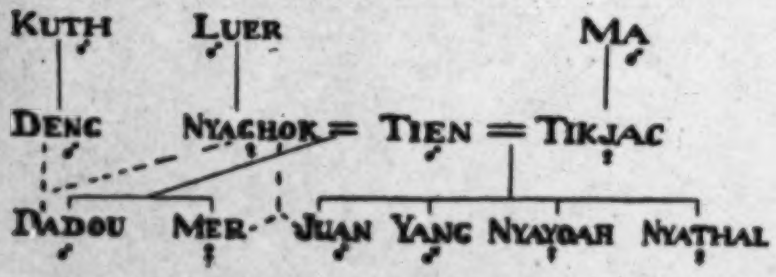
587 593 A *cek ma lak* is translated in this paper as "widow-concubine" for she is living simply as a concubine to her lover and he has no legal rights over her. He cannot compel her to live with him and cannot claim compensation if she commits adultery. He has no legal control over the children who can be taken away from him by her husband's kinsmen whenever they choose to remove them. His position is thus very different from that of a man living with his dead brother's wife. If she leaves him he can divorce her and if she commits adultery he can obtain redress. Moreover, he has legal control of the children during their minority and no one can take them from him as he stands in the place of the pater.

The group that results from the union between a man and a widow-concubine when the children are born by the concubine to her lover is a natural family which stands in what is sometimes glaring opposition to the legal family. The corner-stone of the natural family is the genitor who is acting as husband and foster-father. The corner-stone of the legal family is the dead husband and pater. According to circumstances the position of the genitor in a household of this kind may be precarious or his relations to members of his natural family may approximate to

11:Evans-Pritchard E-5 (1931, 1936) 1945
FJ22 Nuer FJ22

Homestead No. VI. Rainen ♂—Ngwoth ♂. He lives here with his legal wife, Nyadang ♀—Col ♂, by whom he has begotten two sons and five daughters. His byre has fallen down and his cattle are housed in the byre of homestead No. V. The mother of Wang ♂, the owner of this byre, shares a hut with Nyadang ♀. During my visit a Dok girl was living here as unmarried concubine to Rainen's eldest son, Nhial ♂. 592 588

Homestead No. VII. Juan ♂—Tien ♂ (brother of Yang ♂ of homestead No. XIX). He lives with Nyaghok ♀, one of his father's widows. His mother, Tikjac ♀, a Lek woman, also lives at his home. Tikjac ♀ bore her husband two sons, Yang ♂ and Juan ♂, and two daughters, Nyayoah ♀ and Nyathal ♀. She is now past child-bearing. Tien's second wife, Nyaghok ♀, a Dinka woman, committed adultery during her husband's lifetime with one of his distant agnatic kinsmen, called Deng. A boy, Dadou ♂, was born of this adulterous congress. He also lives in this homestead. After Tien's death Nyaghok ♀ cohabited with his son, Juan ♂, to whom she bore a daughter, Mer ♀. See Diagram No. VIII. [837]



[611]

Diagram VIII

Homestead No. VIII. Nyaruithni ♀—Kwenwar ♂, the widow of Rwacar ♂. She is now past child-bearing and does not cohabit with any man. During Rwacar's lifetime she bore two children, but neither by him, both being the fruit of adultery. Her daughter, Nyakewa ♀, who was killed this year by lightning, was begotten by Luin ♂—Kwany ♂, a Lek tribesman, and her son, Malith ♂ was begotten by Gak ♂—Yol ♂, a Jikany tribesman. Her brother's son, Gai ♂—Karlual ♂, lives in her byre and looks after her herd. 592 837

Nyaruithni's sister, Nyaudol ♀—Kwenwar ♂, paid a visit to her homestead this year. When Nyakewa ♀ was killed by lightning Nyaudol's husband, Yoah ♂, was killed at the same time. Nyaudol ♀ says that since she is now a widow she will remain at Nyueny with her children by Yoah ♂: Wectwok ♂, Bilieu ♂, Gatdwiel ♀, and Nyankeni ♀.

Homestead No. IX. Karlual ♂—Kwenwar ♂. He first married Nyakuoo ♀—Kok ♂. She died without children and the cattle were returned (Tang ♂—Karlual ♂ married a wife with them). Karlual ♂ then married 592 [836]

11:Evans-Pritchard E-5 (1931, 1936) 1945
FJ22 Nuer FJ22

587 Karlual ♂ then married
592 Nyaweny ♀—Kong ♂ who is also dead. She bore him Tang ♂ and Gai ♂. Lately he has married Nyariek ♀—Cang ♂ by whom he has an unweaned child. He has an unmarried concubine who was temporarily absent during my visit. She has borne him two sons, Twong ♂ and [193] Kong ♂. Cattle have been paid to legitimatize Twong ♂ and more cattle [43] will be paid to legitimatize Kong ♂.

Karlual's brother, Panyuan, lives in his byre, and his sister's sons, Nhial ♂—Rainen ♂ and Galuak ♂—Rainen ♂, spend most of their time there and house some of their cattle there.

592 *Homestead No. X.* Meat ♂—Col ♂. He is unmarried. In his byre
736 lives his half-brother, Wec ♂—Jany ♂, who has married a wife to the name of one of his father's brothers. She has borne him Korwai ♂ (dead), Nhial ♂, Nyajuacni ♀, and Nyapuot ♀. As he has no cattle, he has sold his byre to Col ♀ of Homestead No. II, and as he is too lazy to cultivate a garden, his wife and family, to save themselves from starvation, live at her sister's home in another village. He wanders hither and thither and scrounges on other people. Another occupant of this byre is Meat's sister's son, Bilieu ♂—Lam ♂.

592 *Homestead No. XI.* Jal ♂—Ngunjuk (brother of Col of homestead
607 No. II). The two brothers live at a distance because their wives do not get on well together. His brother, Bol ♂, and his half-brother, Pan ♂, share his byre. Both are unmarried. Jal ♂ has married a wife to the name of his father's brother, Muong ♂—Ret ♂. This woman, Nyaluak ♀—Deng ♂ has bore him Cuong ♂ and Nyalia ♀. One of the huts in this homestead belonged to Jal's mother who died last year. See Diagram No. VII.

592 *Homestead No. XII.* Nyawal ♀—Col ♂. Her husband was Lam ♂ of
588 the Ngwol clan. She bore him Rwac ♂ (dead) and Nyakwoli ♀. After his death she cohabited with Juan ♂ of the Jikul clan, by whom she bore Bilieu ♂, Nyakuan ♀, Nyalieth ♀, Ghuth ♂, Bathu ♀, and Nyalita ♀. She is past child-bearing and does not cohabit with any man. Her cattle are housed in the byre of her brother Meat ♂, of Homestead No. X.

592 *Homestead No. XIII.* Nyading ♀—Kulang ♂. Her daughter, Nya-
588 mani ♀, was married by Tang ♂—Karlual ♂ to the name of Ran ♂, a brother of his father (though begotten by Kwenwar while Karlual ♂ was [175] begotten by Jany ♂). Ran ♂ had died before initiation and his ghost began to kill Karlual's wives and children and had to be quieted by being married a wife. Nyamani ♀ lives with her mother, Nyading ♀, whose husband, Dak ♂—Jiong ♂, is dead. She bore Dak ♂ three children: Nyamani ♀, Nyaghok ♀, and Gai ♂. Dak ♂ by another wife begat Nyajuani ♀ who also lives in this homestead. Nyajuani ♀ was married by Pathol ♂—Nyaalbor ♂ of the Lual section and bore him a blind son who also lives here. She refused to live with her husband's brother when he • B92 died, so the cattle of her bride-wealth were returned. She was then married to another man and divorced by him. She now cohabits with Mokwac ♂ of Homestead No. XVI and has borne him a son.

Homestead No. XIV. Loc ♂—Jany ♂. He married a wife, Can ♀—Gilweg ♂ of the Rengo section of the Jikany tribe, to the name of his dead

584 make the best of it now. When the family of the girl are willing to talk the matter over, representatives of her lover's family discuss the marriage payment with them and try to agree upon a suitable price. Usually some arrangement is made, and the man makes as large an initial payment as he possibly can, following it up by other payments as he is able.

682 Everything may go all right until the baby is born. If by any chance the mother should die and her death be considered as caused by the birth of the child, the father of the child is held to have caused her death. And serious trouble is on again between the two families. If a member of her family does not kill her lover, he is fined for her death.

But if she lives and the baby lives, all is peaceful and they may live the proverbial happy life ever after.

595 Likewise, a man may have a wife whom he has married, and one or more whom he has not paid for but who are his wives in reality and the mothers of his children. He keeps a house for each, and they are often good friends with his real wife, although they are never called his wives.

Thus a man may have children by his several wives, and it is quite common to ask children of the same father if they have the same or different mothers. Or one may ask children of the same mother if they have the same father, especially if their mother is an inherited wife.

587 When a man dies his wife is inherited by his brothers or other male relatives. In case they do not want her, she may be returned to her father's village and the cattle paid back.

● 586 Divorce is not unknown in Nuerland, but it is usually caused by the lack of children. If a wife cannot bear a child, or fails to bring living children into the world, the

14: Huffman M-5 (no date) 1931
FJ22 Nuer FJ22

husband may demand the return of his cattle and return her to her father's village. Likewise, if the husband fails his wife in this respect, her people very probably will cancel the marriage and seek another husband for her. Representatives of both parties interested meet together and discuss the matter before the actual separation takes place. 586

One time, when asking a woman her name, I was surprised to hear her give a woman's name as her surname. Upon inquiry I found that she considered this woman whose name she bore as her nominal father. 588

The older woman was unable to bear children, but she had a number of cattle, so she paid for a girl who was considered as her wife. She got a man to come and live with the girl in order to beget a child. Then the child when born was considered as belonging to its mother and to her. She might give the man a cow, but he would have no claim upon the child or its mother then or at any other time.

This woman had several 'wives' and a number of children. She was the central figure of authority in her village and was considered a good leader of her people. I had heard of her before, but had never met her. She seemed to be a competent, capable woman, well respected by those who knew her and by the Government official as well. Her face, her speech and her manner were utterly different from what one might expect to find in one who—according to our western standards—had allowed herself to sink to depths of degradation.

Instead, one saw a Nuer woman a little past middle age, matronly, capable, and kind in appearance. She in in her way had sought children—and found them—and she loved them and cared for them.

606
607 For a man's wife, avoidance is impracticable, but she treats her parents-in-law with great respect and, in the early days of marriage, keeps herself apart from them as much as possible. She is on joking terms with her husband's brothers since, among brothers, the wife of one is, in the social sense, the wife of all.(1)

DIVORCE

586 If a wife dies childless or if her husband divorces her the bride-wealth cattle have to be returned. If a child has been born and is left with the husband then the cattle are returned, minus six. If two children have been born, no cattle are returned. Divorce is recognised as having taken place only if cattle are returned; if a wife leaves her husband to live with another man, and her husband does not claim return of the bridewealth, any children she may bear are his. Divorce after the birth of a child is very unusual, and after the birth of a second child, almost unknown.

RITUAL AND OTHER CULTURAL FEATURES

TOTEMISM

776 The various Nuer lineages have specific ritual attitudes towards certain natural objects and living creatures. They respect the lion, reptiles, birds and plants; some lineages respect rivers and streams but, for all Nuer, rivers are specially associated with the mother spirit, Nyadiang, who is held in reverence by all the people. Some lineages respect cattle with certain markings and therefore do not keep them. The largest clan in Nuerland - the Gaetgaakiir of the Jikany tribes - respect gourds, since, it is said, the ancestor of the clan was found in a gourd. In general, however, totems are associated with lineages rather than with clans.

[777] Nuer totems (kwoth) are neither peculiar nor particularly important, and the Nuer themselves state that the majority of the totems come from the Dinka; they further maintain that the kuth of Nuer lineages are sky spirits, or spirits of persons who have been killed by lightning and have become sky spirits. The totemic relationship is explained in the myths which tell how ancestors of the lineages and the members of the species related to the lineages, were born twice. A man respects his wife's totems and a woman her husband's, while children respect their mother's totems generally. A totemic relationship of the same type does not prevent marriage.

Respect for a totem consists in refraining from hurting it or eating it; in paying it some recognition and consideration, and in making an expression of regret should it be found dead. In turn the totemic species is expected not to cause any harm to those who respect it. Sacrifices and prayers are made to the totem and cattle are dedicated to it. The species itself is not worshipped although the representatives are

(1) Evans-Pritchard, Man, 1948, No.2, p.5.

16: Evans-Pritchard E-5 (1931, 1936) 1956
FJ22 Nuer FJ22

776 614 clan beat an ox-hide his next child might be born without teeth in the gums of the upper jaw as a cow is without upper incisors. A further observance said to obtain in the clan is that their women may not cross a marshy shallow without first kicking some water out of it. People say that the Jikul are *jikwoth*, God's [721] people, in that they are an augury in war, for if a man on the side they are supporting in a fight should be the first to be wounded their party knows that it will be defeated and should retire, whereas if a man of the other side is the first to be wounded they know by this that they will be victorious and should press forward. [593] When a girl of the clan is married a cow of her bridewealth goes to the hide-spirit, and if she is later divorced this cow remains with [596] her parents as indemnity for the hides the people sat on during the marriage negotiations. Mr. B. A. Lewis tells me that when he suggested holding a dance in a village mostly occupied by a Jikul lineage in the Lak tribe he was asked to make a present to the chief man of the community in compensation for the beating of the tympanum of the drum.

776 614 773 The Jikoi clan respect rafters (*koi*) and rope used in the building of byres and huts. They use them for building but they will not use those of an old habitation for fuel. It is related that in ancient times men of this clan tried to build a byre which would reach to the clouds. Other people said that this could not be done because the clouds were far away, and there was much argument on the matter during the building. God in the sky heard the argument and was angered at the presumption of those who wanted to build a byre to reach the heavens, and he sent down lightning and destroyed the builders.

776 177 262 I have mentioned all Nuer totems of which I have certain knowledge and I now say a few words about totemistic relationships before discussing some of the chief features of Nuer totemism and its significance for an understanding of their conception of Spirit. In Nuerland one often finds that individuals respect classes of things not respected by other members of their lineages or even by their close kin. There are people, probably all or mostly of Dinka origin, who refrain from eating certain parts of beasts: entrails, heart, liver, kidneys, spleen, head, and hooves. In those few cases I have inquired into, the association was said to have come about through a misfortune connected with the parts abstained from. For example, people who abstain from eating hearts